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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,706	12/27/2001	Sherrie L. Woodring	87264.3061	9242
21834	7590	04/14/2005	EXAMINER	
BECK AND TYSVER 2900 THOMAS AVENUE SOUTH SUITE 100 MINNEAPOLIS, MN 55416			SHAH, KAMINI S	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,706

Applicant(s)

WOODRING, SHERRIE L.

Examiner

Kamini S. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/26/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 7, 10, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Preamble of the claims includes the following limitation "ingress and egress", wherein the body of the claim discloses alternative language "ingress and/or egress". The preamble clearly defines one possibility; therefore, the claimed step is indefinite for failing to distinctly claim the subject matter.

Claims 7 and 14 includes the following phrase "approximately" which renders claim for the indefinite subject matter.

Claim Objections

3. Claims 17-20 are objected to because of the following informalities: Preamble of the claim recites a method for monitoring data, wherein the body of the claims are written on means plus function format. There is no constancy between preamble and claimed subject matter in the body of claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 11-14, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Busser et al (6,732,243).

Regarding to claimed invention, Busser et al teaches a network storage controller as to claimed probe system, including at least one channel connected to host computer and storage device; and a mechanism for copying all input and output data to/from fiber channel port to the probe (or device), such as host computer sends data over the host channel and receive at the host port on the CIMs, the CIMs then sends data to the storage device connected to the disk port 156, see col. 7, lines 10-30.

Regarding claims 2 and 3, Busser et al discloses a channel director is a storage area network and includes channel architecture as apparatus 100 (network storage apparatus including channel interface modules CIMS, see col. 6, lines 54-64).

Regarding claim 4, wherein said mechanism comprises a mirroring capability to copy data, Busser teaches controller management modules that mirror data between one another, see abstract.

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Regarding claims 5 and 6, wherein said probe is a software device and hardware device, Busser discloses both devices, see at least abstract.

Regarding claims 14 and 17, claim contains similar subject matter of claims 1 and 4 in combination, thus its rejected for the similar reasoning. Also see col. 5, lines 4-49, for mirroring data.

3. Claims 1-7, 9, 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Donnell et al (6,381,642).

Regarding to claimed invention, O'Donnell et al teaches a fiber channel switch and monitoring "in-band" and "out-of-band" of the F-ports as to claimed probe system, including at least one channel connected to host computer and storage device; and a mechanism for copying all input and output data to/from fiber channel port to the probe (or device), such as monitor information record 45, see fig 4, which is generated from set monitor command 39 as in fig. 3 and Read port statistics command 41, as in fig. 3, also see col. 4, lines 30-39.

Regarding claims 2 and 3, O'Donnell et al discloses a channel director is a storage area network and includes channel architecture as standard known in the fiber channel switch (network storage apparatus including channel interface modules, see col. 1, lines 15-30).

Regarding claim 4, wherein said mechanism comprises a mirroring capability to copy data associated with port, O'Donnell et al teaches in-band protocols that mirror data between port to one another host, see col. 2, lines 40-46.

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Regarding claims 5 and 6, wherein said probe is a software device and hardware device, O'Donnell et al discloses monitor information record that is supported by both software and hardware devices, see col. 8, lines 26-40.

Regarding claims 14 and 17, claim contains similar subject matter of claims 1 and 4 in combination, thus its rejected for the similar reasoning. Also see col. 5, lines 4-49, for mirroring data.

Regarding claims 7, 9, 11, 12, 13, 15 16, and 18-20, O'Donnell et al teaches Set Monitor Command signal 39 that specifies the statistic on the information provided by said probe, as on col. 5, lines 65 to col. 6, lines 1-39. Regarding claimed mechanism which reflects an optical energy signal on transmit side and on receive side, it is known to skilled artisan in the fiber channel topology known as "fabric" to establish connection using optical signal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamini S. Shah whose telephone number is 571-272-2279. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kamini S Shah
Primary Examiner
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